UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,249	02/27/2002	Joseph Giordano	24124.000172	8236

7590   12/15/2006

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EXAMINER
GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
3692	

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 September 2006*.

2a)☒ This action is **FINAL**.　　　2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11,13-26,50 and 51* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11,13-26,50 and 51* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

1.   Claims 11, and 13-26, 50-51, remained pending.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 11, 13-26 and 50-51, are rejected under 35 U.S.C. 102(e) as being anticipated by Kaehler et al (Hereinafter Kaehler 6, 089, 284).

As per claim 11, Kaehler discloses method for processing transactions and merchant award program data ("i. e, loyalty benefits" see column 14 lines 53-67 and column 15 lines 1-13), the method comprising:

transmitting a first signal from a merchant transceiver to a customer transceiver("transponder") wherein said first signal causes generation of operative power ("passive or active" see column 7 lines 5-10") that enables the customer transceiver to transmit a second signal to the merchant transceiver;

communicating the second signal to point-of-sale device, said second signal comprising customer identification data(see column 2 lines 6-65)

transmitting an authorization request from said point of-sale device("fuel dispenser") to a host transaction processing method, said authorization request comprising said customer identification data(see column 12 lines 28-65 and column 9 lines 1-63 and column 31 lines 60-67 and column 32 lines 1-6) a merchant identifier and transaction data; determining, from said customer identification data, loyalty award program data that corresponds to said customer identification data, said merchant identifier, or a combination thereof; transmitting, from said host transaction processing method to said point-of-sale devise said loyalty award program data and a response to said authorization request.(see column 14 lines 53-67 and column 15-17 lines 1-67)

Wherein the loyalty award program data comprises a loyalty award amount that is redeemable with a merchant other than a merchant associated with the merchant identifier (see column 14 lines 53-67 and column 15 lines 1-13 and column 36 lines 65-67 and column 37 lines 1-17.

As per claim 13, Kaehler discloses wherein said secondary authorization data is used to process transactions and redeem loyalty award program data. (see column 14 lines 53-67 and column 15-17 lines 1-67).

As per claim 14, Kaehler discloses wherein said secondary authorization data comprises a personal identification number manually entered at said point-of-sale.(see column 7 lines 1-65).

As per claim 15, Kaehler discloses wherein said secondary authorization data comprises biometric data.(see column 2 lines 60-65).

As per claim 16, Kaehler discloses wherein said loyalty award program data is used as payment for a transaction that corresponds to said transaction data. (see column 14 lines 53-67 and column 15-17 lines 1-67).

As per claim 17, Kaehler discloses wherein said loyalty award program data authorizes a user associated with the customer identification data to a discount on a product or service from a merchant. (see column 14 lines 53-67 and column 15-17 lines 1-67).

As per claim 18, Kaehler discloses wherein said product or service corresponds to said transaction data. (see column 14 lines 53-67 and column 15-17 lines 1-67).

As per claim 19, Kaehler discloses wherein said loyalty award program data authorizes a user associated with the customer identification data to a free product or service from a merchant. (see column 14 lines 53-67 and column 15-17 lines 1-67).

As per claim 20, Kaehler discloses wherein said product or service corresponds to said transaction data. (see column 14 lines 53-67 and column 15-17 lines 1-67).

As per claim 21, Kaehler discloses a method for enrolling users in a transaction processing program ("i. e, pre registration" see column 38 lines 40-65) comprising: transmitting transmitter identification data from a customer transponder to a point-of-sale device(see column 2 lines 49-65)

transmitting payment information to said point-of-sale device(see column 11 lines 1-14

and column 3-29) associating said transmitter identification data with said payment

information(see column 11 lines 1-14 and column 3-29)

transmitting said associated transmitter identification data and said payment information

to a host transaction processing system(see column 11 lines 1-14 and column 3-29)

and enrolling a user associated with the customer transponder by storing enrollment

data comprising said associated transmitter identification data and said payment

information in said host transaction processing system. (see column 19 lines 30-43) and

column 3-29 and column 38 lines 40-65).

As per claim 22, Kaehler discloses wherein said payment information corresponds

to a credit card, debit card, or bank account, or a combination thereof.(see column 7

lines 30-43).

As per claim 23, Kaehler discloses further comprising transmitting additional

customer information to said host transaction processing method, associating said

additional customer information with said transmitter identification data and said

payment information, and storing said associated additional customer information,

transmitter identification data and said payment information. (see column 2 lines 50-65

and column 19 lines 30-43 and column 3-29).

As per claim 24, Kaehler discloses a method for enrolling users in a transaction

processing program ("i. e, pre registration" see column 38 lines 40-65) comprising:

transmitting transmitter identification data from a customer transponder to one of a

plurality of point-of-sale devices;

transmitting payment information to said one of a plurality of point-of-sale devices;

transmitting said transmitter identification data and said payment information to a host

transaction processing method(see column 2 lines 50-65 and column see column 14

lines 37-40 and column 19 lines 3-29) assigning a unique customer identifier that

corresponds to said transmitter identification data (see column 2 lines 6-65)

associating said unique customer identifier, said transmitter identification data(see

column 2 lines 50-65) and said payment information(see column 19 lines 3-29) and

storing said associated unique customer identifier, transmitter identification data and
payment information in said host transaction processing system
(see column 2 lines 50-65 and column 19 lines 30-43 and column 3-29 and column 38
lines 40-65)
and enrolling a user associated with the customer transponder by storing enrollment
data comprising said associated transmitter identification data and said payment
information in said host transaction processing system. (see column 19 lines 30-43 and
column 3-29 and column 38 lines 40-65).

As per claim 25, Kaehler discloses wherein said payment information corresponds
to a credit card, debit card, or bank account, or a combination thereof.(see column 7
lines 30-43).

As per claim 26, Kaehler discloses further comprising transmitting additional
customer information to said host transaction processing method, associating said
additional customer information with said transmitter identification data and said
payment information, and storing said associated additional customer information,
transmitter identification data and said payment information. (see column 2 lines 50-65
and column 19 lines 30-43 and column 3-29).

As per claim 50, Kaehler discloses further comprising the step of determining
loyalty award program data that corresponds to said merchant identifier. (see column 14
lines 53-67 and column 15-17 lines 1-67).

As per claim 51, Kaehler discloses further comprising the step of determining
loyalty award program data that corresponds to a combination of said customer
identification data and said merchant identifier. (see column 14 lines 53-67 and column
15-17 lines 1-67).

Conclusion

RESPONSE TO ARGUMENTS

4. Applicant's arguments filed 9/12/2006 has been fully considered but they are not
persuasive for the following reasons.

5. In response to Applicant's arguments that Kaehler fail to teach or suggest "loyalty
award program data and only teaches one merchant point of sale and such a loyalty

award is therefore not redeemable with a merchant' other than a merchant associated with the merchant identifiers point of sale, and also fail to teach any method of enrolling users in a transaction program the Examiner disagrees with Applicant's because the limitations are addressed within the teachings as stated.

6.   Kaehler teaches processing transactions and merchant award program data ("i. e, loyalty benefits" see column 14 lines 53-67 and column 15 lines 1-13 the method comprising, transmitting a first signal from a merchant transceiver to a customer transceiver("transponder") wherein said first signal causes generation of operative power "passive or active" see column 7 lines 5-10" that enables the customer transceiver to transmit a second signal to the merchant transceiver;

communicating the second signal to point-of-sale device, said second signal comprising customer identification data see column 2 lines 6-65

transmitting an authorization request from said point of-sale device("fuel dispenser") to a host transaction processing method, said authorization request comprising said customer identification data(see column 12 lines 28-65 and column 9 lines 1-63 and column 31 lines 60-67 and column 32 lines 1-6) a merchant identifier and transaction data; determining, from said customer identification data, loyalty award program data that corresponds to said customer identification data, said merchant identifier, or a combination thereof; transmitting, from said host transaction processing method to said point-of-sale devise said loyalty award program data and a response to said authorization request. see column 14 lines 53-67 and column 15-17 lines 1-67

Wherein the loyalty award program data comprises a loyalty award amount that is redeemable with a merchant other than a merchant associated with the merchant identifier (see column 14 lines 53-67 and column 15 lines 1-13 and column 36 lines 65-67 and column 37 lines 1-17).

It is inherently clear the Applicant's claimed limitations were addressed within the teachings because of Kaehler, discloses loyalty benefits and fueling environment or one of an associated groups of environments and redeeming loyalty benefits at the same or an associated fueling environments which can be one of many a franchises own by a different person/s or entities.

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

       A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
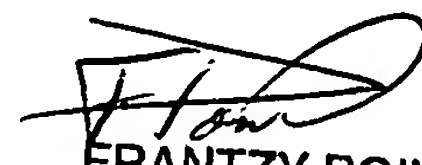
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

November 29, 2006

FRANTZY POINVIL
PRIMARY EXAMINER
AU 3692